

ASSEMBLY BILL

No. 1602

**Introduced by Assembly Members Eng and Feuer
(Coauthors: Assembly Members Dickinson, Galgiani, and Skinner)**

February 6, 2012

An act to add Section 2923.7 to the Civil Code, relating to mortgages.

LEGISLATIVE COUNSEL'S DIGEST

AB 1602, as introduced, Eng. Mortgages and deeds of trust: foreclosure.

Existing law requires that, upon a breach of an obligation of a mortgage or transfer of an interest in property, the trustee, mortgagee, or beneficiary record a notice of default in the office of the county recorder where the mortgaged or trust property is located and mail the notice of default to the mortgagor or trustor.

This bill would prohibit a mortgagee, trustee, beneficiary, or authorized agent from recording a notice of default unless the mortgagee, trustee, beneficiary, or authorized agent has made reasonable and good faith efforts to evaluate the borrower for available loan modification options to avoid foreclosure. The bill would authorize a borrower to seek to enjoin a foreclosure and to recover damages and reasonable attorney's fees in the event that the mortgagee, trustee, beneficiary, or authorized agent fails to comply with the bill's requirements.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2923.7 is added to the Civil Code, to
2 read:
3 2923.7. (a) A mortgagee, trustee, beneficiary, or authorized
4 agent shall not record a notice of default pursuant to Section 2924
5 unless the mortgagee, trustee, beneficiary, or authorized agent has
6 made reasonable and good faith efforts to evaluate the borrower
7 for available loan modification options to avoid foreclosure.
8 (b) If the mortgagee, trustee, beneficiary, or authorized agent
9 fails to comply with this section, a borrower shall have a cause of
10 action to enjoin the foreclosure and to recover damages and
11 reasonable attorney's fees.

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